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FEDERAL COMMUNICATIONS COMMISSION  
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GEORGETOWN UNIVERSITY LAW CENTER

*INSTITUTE FOR PUBLIC REPRESENTATION*

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November 17, 1993

The Honorable James H. Quello  
Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Cable Leased Access, MM Docket 92-266

Dear Mr. Chairman:

On June 21, 1993, the Center for Media Education ("CME") filed a petition for reconsideration urging the Federal Communications Commission ("FCC") to reconsider its decision to use the highest implicit access fee as the maximum reasonable rate for cable leased access channels. CME argued that there is no basis in the record for the conclusion that the rates established by the FCC's rules will be affordable for most programmers, particularly non-profit programmers. In a subsequent meeting to discuss leased access, FCC staff indicated that examples from the real world as to the effect of the rules would be helpful. The attached letter provides an example of a current lessee, operating on a commercial basis, that would not be able to pay the rates established by the FCC as "reasonable." The letter provides strong evidence that the Commission's current leased access rules will indeed result in rates unaffordable for most programmers.

As described more fully in the letter, Fort Bend Community TV currently leases channel 39 from the local cable company, Prime Cable. B.K. Carter, President of Fort Bend Community TV, began her effort to lease a local cable channel in July, 1992. Initially, Prime Cable did not return her phone calls. Even when Ms. Carter was able to reach someone at Prime Cable, the terms and conditions offered were unreasonable. It was not until


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Quello  
11/17/93

January, 1993, and only after intervention on Ms. Carter's behalf by U.S. Representative Tom DeLay, that Ms. Carter was able to negotiate the lease of a cable channel.

Fort Bend Community TV provides unique local programming to the Fort Bend community, covering charitable, civic and educational activities -- programming that would not otherwise be provided. Even though it has been cable-casting 24 hours per day, seven days per week since February 27, 1993, Fort Bend Community TV has not yet become financially successful. As Ms. Carter describes more thoroughly in her letter, the rate that she was ultimately able to negotiate is far below the maximum rate permitted by the FCC's new rules. If Fort Bend Community TV were required to pay the maximum reasonable rate, it would no longer be able to offer the service. Indeed, because of the economics faced by local programmers, Ms. Carter suggests that these rates will be too high for almost all local programmers.

One of the reasons Congress directed the FCC to establish maximum reasonable rates for leased access channels was to ensure that such channels are affordable for local programmers. The problems faced by Fort Bend Community TV are not unique. CME urges the Commission to take this new evidence into account in reconsidering its decision to adopt the highest implicit access fee as the maximum reasonable rate. A lower rate for leased access channels, and particularly for non-profit programmers, is the only way to ensure that Congress's goal of diversity is achieved.

Respectfully submitted,



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cc: Commissioner Ervin S. Duggan  
Commissioner Andrew C. Barrett  
Mr. William Johnson  
Mr. John Hollar  
Ms. Karen Kosar

Ms. Maureen O'Connell  
Ms. Linda Oliver  
Mr. Bruce Romano  
Ms. Lisa Smith  
MM Docket 92-266 (two  
copies)

# FORT BEND COMMUNITY TV

• 13515 Southwest Freeway, Suite 208, Sugar Land, TX 77478 • (713)242-6506 • FAX (713)242-7922

October 21, 1993

Mr. John Schwartz  
Center for Media Education  
P.O. Box 6060  
Boulder, Colorado 80306

SENT FIRST VIA FAX

Dear Mr. Schwartz,



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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

As the owner of a small weekly newspaper in Sugar Land, Texas, a suburb of Houston, I have often deplored the lack of news space available to devote to all the activities--charitable, civic, and educational--that occur in Fort Bend County. Our area is too close to Houston to support a daily newspaper (Houston already has two major dailies--the *Houston Chronicle* and the *Houston Post*), and the Fort Bend County area is considered by national advertisers to be a part of the Houston Metropolitan Area. Therefore it seemed we were forever consigned to "Mom and Pop" advertisers which subsequently limited the news space and coverage available to many worthwhile local events. It seemed that by the time we covered the city council meetings, we were out of news space.

I therefore decided to contact my local cable company about leasing time on a channel in order to give a lot more coverage to a lot more events, inexpensively (I mistakenly thought it would be less expensive to run a video tape than to chop down a tree for newsprint). For example, I thought it would be fun and interesting to run tapes of the local football games the next day. After all, the coaches taped the games anyway and the kids could see themselves the next day on television. This also would apply to the band, cheering squad, etc.

Fort Bend is a very social community with fund-raising events held each year. A picture in the newspaper of school children releasing balloons to publicize the "Just Say No" week would not compare to a video record of the colorful event, just like a picture from the yearly Heart Association Ball would not compare with seeing a colorful, action video of people dancing and bidding on charity auction items.

In July, 1992, I started by telephoning my local cable company, Prime Cable. They wouldn't return my telephone calls. I tried calling their corporate offices in Austin. They still wouldn't return my telephone calls. I asked the president of the local telephone company, who had built the original cable system, to call the corporate offices and request they return my telephone calls. During that first telephone call, Mr. Bob Burns of Prime Cable informed me they didn't have an extra channel, so what I wanted (24-hour-channel, seven days per week) would be impossible, but I could buy time at approximately \$300 per hour. I finally got an address and started writing Prime Cable letters in August, 1992. After an exchange of letters I reminded them of Section 612 of the 1984 Cable Act. Realizing I had read the Act, Prime Cable offered in writing to lease me a channel for 50% of my gross advertising, one-time capital costs of \$5,448 plus between \$13,500 to \$30,000 per mile line construction charges, and an on-going monthly maintenance fee to be determined.

After another exchange of letters, Prime Cable continued to resist any reasonable offer and continued to want 50% of gross revenues, plus start up costs of \$20,000, a monthly maintenance fee, and refused an offer from me to hire a subcontractor to construct the lead-in to their headend.

Similar negotiations with Warner Cable yielded an offer from Warner to lease us a channel in the Stafford-Missouri City area with approximately 11,000 subscribers for \$11,500 per month plus start-up fees of \$30,000 to block a signal from Houston.

In September 1992, I not only hired an attorney, but enlisted the aid of my congressman, U.S. Rep. Tom DeLay to help me reach an agreement with Prime Cable company.

Schwartz

21 October 1993

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After a meeting in Congressman DeLay's office on November 3, 1992, Prime Cable offered to lease a channel for 15% of gross revenues and to allow my hiring of a subcontractor to install the cable lead-in.

Negotiations continued throughout the rest of 1992 and in January 1993, I signed a lease agreement with Prime Cable. Contractual agreements prohibit my revealing the terms of the agreement, but it is far below the maximum rate now permitted by the 1993 Cable Act Re-Regulation and only achieved by the hiring of an attorney and the intercession of my congressman, a man who lead the fight against re-regulation.

We have been cable-casting 24-hours-per day, seven days a week since February 27, 1993. Even after 14 years experience in the news/advertising business and with an advertising sales team already in place and several reporting staff already up to speed, we are still losing money. Were it not for the long-time successful newspaper carrying the financial burden, we would not have made it through these rough months. And even with our head start, we, like many start-up companies, still may not be financially successful. Imposition of the maximum fees allowed per subscriber would mean our vision of a community commercial access channel, which costs taxpayers and cable subscribers nothing, would be impossible. And I must point out that we had a real head start in being able to advertise our program line-up in the newspaper and having immediate access to business advertisers who already trusted our expertise.

Since our current lease agreement is based on the number of subscribers per month, we have been able to track the number of new connections Prime Cable has made each month. It has been substantial. Prime Cable in other areas of Fort Bend County has received numerous requests for our programming as has Warner Cable, which also services a large portion of Fort Bend County. We have provided programming, educational, and employment opportunities for the local high schools and colleges. Each day we show people and faces of Fort Bend County, doing the things that make this such a vibrant community. Attached is a copy of our programming for one week.

Since local commercial leased access has such a narrow appeal, and as a consequence, such low commercial rates, coupled with the high start-up costs for television production, it is necessary that lease fees must be kept low enough to encourage this local diverse programming. This allows the small businesses to get their advertising messages out and the communities to participate with local programming in the "Information Age" of the 21st century. Lease fees based on the current maximum per subscriber will have a dampening effect on this local programming and that was certainly not the intention of Congress in the 1993 Re-Regulation.

It is interesting to note that Fort Bend Community TV is one of the few companies that has been allowed, yes **ALLOWED**, to avail themselves of local commercial leased access. Even through the investigation of a national video magazine, I have been able to identify only two other such companies. First, it is not profitable to any great degree, even with inexpensive lease agreements. And second, the cable companies have fought the concept vehemently, preferring to offer, sadly, another pay-per-view channel.

I feel that cable companies would honestly benefit by encouraging local programming. Residents want to see themselves, their activities, their neighbors, and their children on television and would become more likely to subscribe if they thought this would occur. The number one complaint I hear about cable companies from people is they don't subscribe because they have children and don't want them to be exposed to the things they can see on cable. The cable companies are missing an opportunity by not encouraging this local involvement.

Sincerely,



B.K. Carter  
President, Fort Bend Community TV

Copy to: U.S. Representative Tom DeLay

# FORT BEND COMMUNITY TV

## TV WEEK

CABLE CHANNEL 39

Tune in on basic service Prime Cable-Sugar Land Channel 39 twenty-four hours a day • Reprogram your remote control • Local Fort Bend County events updated daily on Fort Bend Community TV

**Scheduled Programs October 28 - November 3 • Community Calendar runs continuously**

### Thursday, October 28

9:00 am *Thirty Minutes with Cable - Sandra Cable* - Stafford Police Chief Bonny Krahn talks with Sandra Cable about what's happening in and around Stafford.

9:30 am *You and Your Health - Mazie Leftwich* - Just another pretty face? Tune in as Mazie and her guest, Dr. Iris Pollinger, Dermatologist, discuss skin care.

12:00 noon *Thirty Minutes with Cable - Sandra Cable* (See 9:00 am)

3:30 pm *Nana's Story Time - Lyn Adolphus* - Lyn reads to our young audience.

6:00 pm *Thirty Minutes with Cable - Sandra Cable* (See 9:00 am)

6:30 pm *Fort Bend Real Estate Show* - In the market to buy a new home? Find it on this show, brought to you by local Fort Bend Realtors.

7:00 pm *Point of View - Eric Thode* - Probation vs Parole - Judge Larry Wagenbach, Dennis McAfee and Deanne Rogers discuss this issue with Eric.

7:30 pm *Nana's Story Time - Lyn Adolphus* (See 3:30 pm)

8:00 pm *Commissioners Court Meeting* of Tuesday, October 26

### Friday, October 29

9:00 am *Best of Fort Bend with Linda Howell* - Linda attends FBISD's "Kick-off" Rally for Red Ribbon week. Tune in as students join together to knock out drugs!

12 noon *Best of Fort Bend with Linda Howell* (See Fri 9:00 am)

3:30 pm *Nana's Story Time - with Lyn Adolphus* (See Thurs 3:30 pm)

6:30 pm *NewsMakers with Kathy Morrow*

7:00 pm *Best of Fort Bend with Linda Howell* (See 9:00 am)

7:30 pm *Nana's Story Time - Lyn Adolphus* (See Thurs 3:30 pm)

8:00 pm *You and Your Health - with Mazie Leftwich* (See Thurs 9:30 am)

8:30 pm *Our House (Segment 12)* - Energy savings through home improvements offered by expert Tom Tynan and TV personality Lori Tucker.

### Saturday, October 30

9:30 am *You and Your Health - with Mazie Leftwich* (See Thurs 9:30 am)

10:00 am *Fort Bend Real Estate Show* - In the market to buy a new home? Find it on this show, brought to you by local Fort Bend Realtors.

10:30 am *Our House (Segment 12)* - Energy savings through home improvements offered by expert Tom Tynan and TV personality Lori Tucker.

12:00 noon *NewsMakers with Kathy Morrow*

3:30 pm *Nana's Story Time - with Lyn Adolphus* (See Thurs 3:30 pm)

4:00 pm *30 Minutes with Cable - Sandra Cable* (See Thurs 9:00 am)

4:30 pm *NewsMakers with Kathy Morrow*

5:00 pm *Dulles Daze - Stan Magee* and his Broadcast Team take you in and around DHS and the students activities!

5:30 pm *Coaches Corner - Stan Magee* and his Broadcast Team talks with the coaches at DHS.

6:00 pm *In Your Face with Jay Pennison and Dennis Connell* - Pennison's Pub, in First Colony, is the place for this sports talk show. Special guest this week is - Elvis??

6:30 pm *Fort Bend High School Football - Dulles vs Brazoswood* (Tape delay of Friday, October 29 game)

9:30 pm *Saturday Night at FB-TV LIVE!* Tune in on the off chance

of seeing your neighbors make fools of themselves! Fort Bend TV (and others) Halloween party live coverage.

### Sunday, October 31

9:30 am *Fort Bend Real Estate Show* - In the market to buy a new home? Find it on this show, brought to you by local Fort Bend Realtors.

10:00 am *Fort Bend High School Football* (See Sat 6:30 pm)

1:30 pm *NewsMakers with Kathy Morrow*

2:00 pm *Point of View - with Eric Thode* (See Thurs 7:00 pm)

2:30 pm *Best of Fort Bend with Linda Howell* (See Fri 9:00 am)

3:30 pm *Focus on Fort Bend with Jane McMeans*

4:00 pm *Our House (Segment 12)* - (See Fri 8:30 pm)

5:00 pm *In Your Face with Jay Pennison and Dennis Connell* - (See Sat 6:00 pm)

6:00 pm *Fort Bend High School Football* - Willowridge v Angleton (Tape delay of Saturday, October 30 game)

### Monday, November 1

9:00 am *Best of Fort Bend with Linda Howell* - Go with Linda to the George Ranch as sponsor David Taylor Cadillac/Buick displays "Cadillacs through the Years" at Texian Market Days.

9:30 am *Focus on Fort Bend with Jane McMeans*

10:00 am *Our House (Segment 12)* - (See Fri 8:30 pm)

12 noon *Best of Fort Bend with Linda Howell* (See Mon 9:00 am)

6:00 pm *In Your Face with Jay Pennison and Dennis Connell* (See Sat 6:00 pm)

6:30 pm *NewsMakers with Kathy Morrow*

7:00 pm *Best of Fort Bend with Linda Howell* (See Mon 9:00 am)

7:30 pm *Coaches Corner* (See Sat. 5:30 pm)

8:00 pm *Dulles Daze* (See Sat 5:00 pm)

8:30 pm *Point of View with Eric Thode* (See Thurs 7:00 pm)

### Tuesday, November 2

9:00 am *Thirty Minutes with Cable - Sandra Cable* (See Thurs 9 pm)

9:30 am *You and Your Health - Mazie Leftwich* (See Thurs 9:30 am)

6:00 pm *Thirty Minutes with Cable - Sandra Cable* (See Thurs 9 am)

6:30 pm *Fort Bend Real Estate Show* - In the market to buy a new home? Find it on this show, brought to you by local Fort Bend Realtors.

7:00 pm *Fort Bend High School Football* (See Sun 6:00 pm)

Wednesday, November 3

9:00 am *Best of Fort Bend with Linda Howell* - Here comes the judge! Join Linda as she goes to incumbent County Judge Roy Cordes' campaign kick-off at Greatwood.

9:30 am *Our House (Segment 12)* (See Fri 8:30 pm).

10:00 am *Sugar Land City Council Meeting* of Tuesday, Nov. 2

12 Noon *Best of Fort Bend with Linda Howell* (See Wed 9:00 am)

1:00 pm *Fort Bend Commissioners Court Meeting* of Tuesday Nov. 2

6:30 pm *NewsMakers with Kathy Morrow*

7:00 pm *Best of Fort Bend with Linda Howell* (See Wed 9:00 am)

7:30 pm *Sugar Land City Council Meeting* of Tuesday, Nov. 2

To request that your cable company carry Fort Bend TV on

its Basic Service, please call the following numbers:

Stafford/Missouri City.....Warner Cable, 482-1900

Pecan Grove/Richmond.....Prime Cable, 586-9499, #2

Rosenberg.....Jones Spacelink, 342-9917

Keep up with local events! Watch Prime-Sugar Land's Channel 39. To Order Prime Cable-Sugar Land service, please call

**537-2900**



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